

### **Remarks/Arguments**

Claims 1-16 are pending. Claims 5-8 and 12-16 are indicated allowable. Claims 1-4 and 9-11 are rejected.

The Office Action maintains that claims 1-4 and 9-11 are unpatentable over US5,585,866 ("Miller") in view of US5,262,765 ("Tsumura"). Applicants respectfully submit that these claims are patentable over these two references because there is no teaching or suggestion, found in the references themselves, to combine the references as suggested by the Office Action. As such, applicants submit that the conclusion of obviousness is based on improper hindsight reasoning because it includes knowledge gleaned only from applicants' disclosure.

Both independent claims 1 and 9 recite a feature of when a selected program is determined to be an audio-only program, playing the audio-only content and displaying a stored animated image. There is no teaching or suggestion, found in the references themselves, to combine the two references to arrive at the feature cited above as suggested by the Office Action. As such, claims 1 and 9, and their respective dependent claims 2-4 and 10-11, are patentable over these two references.

Tsumura teaches displaying animation images along with lyrics on a karaoke visual display medium without detracting from the benefits of music data based on the MIDI standard. See col. 2, lines 2-7. The tempo of the music is used as animation image frame feed data. See col. 2, lines 45-48. Thus, a user can visualize the tempo of the music from the animation image, helping the user keep up with the tempo of the music. As such, displaying the animation image enhances the function of a karaoke machine.

By contrast, Miller teaches an improved electronic program guide that provides the user with a more powerful, and convenient operating environment, while, at the same time, increasing the efficiency of navigation by the user through the guide. See col. 1, lines 13-17. For example, FIGs. 43-45, relied upon in the Office Action, lists all digital music service (DMX) virtual channels, so that user can efficiently use the UP and DOWN keys in the remote control to select a virtual music channel. See, for example, col. 30, lines 23-35.

Although, as pointed out by the Office Action, Miller discloses that an appropriate indicator, such as a change of color of the Listen area 503, or placement of an appropriate icon or text, indicating that the Listen function 503 has been activated, may be utilized (see col. 31, lines 14-17), Miller does not disclose or suggest that the indicator is an animated image. Furthermore, unlike in a karaoke environment, displaying an animated image does not make the operation environment more convenient or efficient for a user as intended by Miller. In fact, the moving background may make it more difficult and confusing for a user to select one of the buttons for a particular virtual channel. This problem, however, does not exist in the present invention because when an audio-only program is selected in the present invention, the screen does not serve as a user interface for taking user inputs or selections. See FIG. 6 of the application. Thus, a skilled artisan after reading these two references would have no motivation to modify Miller for displaying an animated image in the menus shown in FIGs. 43-45 of Miller using the teaching of Tsumura.

Furthermore, Tsumura discloses that the tempo of the music is used as the animation image frame feed data. Since Miller discloses an electronic television program guide schedule system, which does not include tempo data


for music in a DMX virtual channel, it is not apparent how it would be possible to modify Miller according to the teaching of Tsumura. Thus, there is no motivation to modify Miller to incorporate the teaching of Tsumura, or combine the teachings of Miller and Tsumura.

In light of the facts that there is no motivation to combine both teachings or modify the teaching of Miller incorporating the teaching of Tsumura, applicants submit that claims 1 and 9, and their respective dependent claims 2-4 and 10-11, are patentable over both references.

Having fully addressed the Examiner's rejections it is believed that, in view of the preceding amendments and remarks, this application stands in condition for allowance. Accordingly, reconsideration and allowance are respectfully solicited. If, however, the Examiner is of the opinion that such action cannot be taken, the Examiner is invited to contact the applicant's attorney at (609) 734-6813, so that a mutually convenient date and time for a telephonic interview may be scheduled.

No fee is believed due. However, if a fee is due, please charge the fee to Deposit Account 07-0832.

Respectfully submitted,

  
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**CERTIFICATE OF MAILING**

I hereby certify that this amendment is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to [Mail Stop RCE], Commissioner for Patents, Alexandria, Virginia 22313-1450 on:

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Date

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